

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

DECEMBER 6, 2011

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Superintendent Strittmatter, Major Poindexter, Corporal Thickstun, Lt. McKinney and Executive Secretary Neal were also in attendance.

Jeff McKean, Debbie Rolfsen, Jim Purucker, Lisa McKinney, Trevor Vance, Bart Herriman, Jeff McKean, Mark Webb and Connie Vickery were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the November 15, 2011 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Hearing Judge Neal recommended the Commission approve the parties' agreed dispositions that were submitted for the December 6, 2011 meeting.

Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the December 6, 2011 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

RR37-21281 RICO CORPORATION – Executive Secretary Neal recommended that the Commission remand this renewal application to the local board.

Vice Chairman Johnson moved to remand the renewal. Commissioner Sturtz seconded the motion. The motion was unanimously approved.

DL50-27654 GOOD OIL CO., INC. – Executive Secretary Neal requested the Commission uphold his Findings of Fact and Conclusions of Law that recommend overturning the denial of this new application.

Vice Chairman Johnson moved to uphold the recommendation and approve the new permit. Commissioner Guthrie seconded the motion. The motion was unanimously approved.

#### CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

Five hundred twenty-four (524) permits approved for renewal, seventy-nine (79) new and/or transfer permits approved, nine (9) permits approved for catering, six (6) permits approved for first year escrow, one (1) permit approved for second year escrow, one (1) permit approved for third year escrow, one (1) permit approved for fourth year escrow, and one (1) permit approved for fifth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson moved to approve the renewal and fee waived letters of extension for the preceding weeks. Commissioner Sturtz seconded. The motion was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RR49-19875 REST REX, INC., D/B/A TAQUERIA JALISCO REST. – Commissioner Guthrie noted this is a type 103 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated numerous Excise and IMPD reports were presented as exhibits. The local board members cited poor reputation and character as the reason for their recommendation.

Commissioner Guthrie moved to uphold the local board and deny the renewal of the permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR49-20968 RPIDE CORPORATION, D/B/A EL SOL AZTECA – Commissioner Guthrie noted this is a type 112 renewal with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR49-04541 DDA, INC., D/B/A SASSY KATS AND BRU ON MASS, LLC – Commissioner Guthrie noted this is a type 210 renewal application and a transfer of ownership and location with the local board voting three (3) to zero (0) to approve the transfers.

Commissioner Guthrie stated the renewal was previously denied and an appeal was filed. The Commission allowed a transfer to be filed. The local board only voted on the transfers, not the renewal. The Commissioner said he felt that the local board would not have approved the transfers, if they did not intend for the renewal to be approved.

Commissioner Guthrie moved to approve the renewal and uphold the local board and approve the transfers. Vice Chairman Johnson seconded. The motion was unanimously approved.

RH45-24091 APPLE TEN HOSPITALITY MANAGEMENT, INC. - Commissioner Guthrie stated this application was submitted with an address of Hobart. However, the surveyor's report states the jurisdiction is in Merrillville.

Commissioner Guthrie moved to approve the change of jurisdiction. Commissioner Sturtz seconded. The motion was unanimously approved.

### **INACTIVE FILES**

INACTIVE FILES- Vice Chairman Johnson moved to make five (5) permits inactive. Three (3) permits are subject to auction and two (2) permits are not subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

No New Business

### **POLICY DETERMINATIONS**

NON-RULE ATC-011 AND ATC-012 – Executive Secretary Neal stated these non rule policies clarify the process by which coupons and rebates may be submitted for approval by the Indiana State Excise Police Trade Relations Officer and also the process to be followed to ask for reconsideration for denial of coupons and/or rebates.

Commissioner Guthrie moved to adopt non rule ATC-011 and ATC-012. Commissioner Sturtz seconded motion. The motion was unanimously approved.

NON-RULE ATC-013 – Executive Secretary Neal stated this non rule policy sets forth the process for approval of amended floor plans and also the process for requesting reconsideration if the amended floor plan is denied.

Commissioner Guthrie moved to adopt non rule ATC-013, Commissioner Sturtz seconded the motion. The motion was unanimously approved.

### **ANNOUNCEMENTS**

ALCOHOL AND TOBACCO COMMISSION SUMMIT- Chairman Huskey stated the Alcohol and Tobacco Commission will hold an alcohol summit in March 2012. The purpose of the summit is to bring members of the industry and state legislators together to address questions and concerns about alcohol regulations.

The Chairman noted that Indiana State Excise Public Information Officer Travis Thickstun has prepared a survey that is available on the ATC website. The Commission would like for members of the industry to fill out this survey so there will be informational content available for the summit.

#### COMMENDATIONS FOR EXEMPLARY SERVICE

2011 ATC PERMIT AUCTION – Chairman Huskey stated the Commission wanted to recognize the employees who worked on the auction this year. Due to the census and other issues, the number of permits available at this year's auction was unusually large and also the majority of the people working on the auction are either new to the agency and/or new to the auction process. This certainly made for a complicated process that at times seemed very chaotic. However, through that, the auction was very successful.

The Chairman noted the Commission recognized Executive Secretary Davey Neal, Controller Todd Stauffer, Program Coordinator Kim Chew, Account Clerk Angie Miller and Account Clerk Cheri Callahan for their service in the operation of the auction. After this meeting the commendation will be given to them and one will also be placed in each of their personnel files.

Attorney Mark Webb also wanted to applaud the ATC for the handling of the auction this year. With the magnitude of this auction, it appeared it may go on well into the evening. But, through the quick thinking of the ATC, a fair and just solution was found for handling the Marion County permits, which allowed the auction to conclude by 4 o'clock.

DIRECT WINE SHIPMENT PROJECT - Chairman Huskey noted the 2011 General Assembly passed legislation that required the ATC to complete a study for best practices for direct wine shipment, including a report to be submitted to the Legislative Services Agency. This study had to be completed in four (4) months and the Commission was not given any additional resources to conduct this study.

The Chairman stated Staff Attorney Melissa Coxey immediately took this task upon herself. She worked diligently towards thoroughly completing this task in a timely manner. Therefore, Chairman Huskey and the Commission presented Ms. Coxey with a citation of commendation as an appreciation of her hard work and dedication in completing this task. The citation will be given to her with a copy put into her personnel file.

#### ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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ALEX HUSKEY, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER